

- b) a fuel gas inlet passage, said fuel gas inlet passage being disposed in heat exchange relationship with a processed fuel gas stream disposed in an outlet passage from said catalyst bed whereby heat will be transferred to said fuel gas inlet passage from the processed gas stream;
- c) an air inlet passage, said air inlet passage being disposed in heat exchange relationship with processed fuel gas stream whereby heat from the processed fuel gas stream will be transferred to said air inlet passage; and
- d) a fuel gas reforming catalyst deposited in said foam catalyst bed.

38. A hydrocarbon fuel gas autothermal reformer assembly comprising a monolithic open cell foam catalyst bed, said foam catalyst bed including a metal support selected from the group consisting of stainless steel, nickel alloys and iron-aluminum alloys, said catalyst bed including an inlet end and an outlet end, an inlet portion of said catalyst bed being provided with a noble metal-promoted catalyst which is operable to combust a portion of the fuel gas at a temperature of about 500°F thereby enabling start up of the reformer assembly while inhibiting carbon deposition in catalyzed cells of said foam catalyst bed.

REMARKS

This amendment reinstates the subject matter of previous claims 2-7, 9-12, 16-19, 21 and 22, as amended, in Amendment D. The Examiner canceled the original unamended claims 2-7, 9-12, 16-19, 21 and 22 in an Examiner's Amendment which accompanied the Notice of Allowability. The Examiner has cited MPEP §1214.06 as her authority for cancelling these claims. Her "reasoning" for not the claims which were presented in Amendment D is that the amended claims, or the amendment containing the amended claims, "is not proper". As noted above, the Examiner is relying on MPEP §1214.06 for refusing to enter the amendment. MPEP §1214.07 explicitly states that if the amendment, Amendment D in this case, obviously places an application in condition for allowance, irregardless of whether the amendment is filed with an RCE, the primary examiner should recommend that the amendment be admitted, and with the concurrence of the supervisory patent examiner, the amendment will be entered. **A refusal to enter such an amendment may not be arbitrary and capricious.** The Examiner appears to be completely unaware of the provisions of MPEP §1214.07 noted above.

When entry is refused, there is a form paragraph that should be used in connection with the refusal to enter the amendment. This paragraph is set forth in MPEP § 1214.07 and reads as follows: "The amendment filed [1] after a decision by the Board of Patent Appeals and Interferences is not entered because prosecution is closed and the proposed claims raise new issues which require further consideration or search. [2]". Part [2] is an explanation of what further searches and considerations would be required. The refusal to enter the

amended claims set forth in Amendment D did not follow the explicit guidelines set forth in the MPEP, and a **mere allegation** that the amended claims are "not proper" by the Examiner is arbitrary and capricious, and is not sanctioned by MPEP §1214.07. what is "not proper" is the aforesaid statement by the Examiner.

In the instant case, Claim 13 has been allowed. Therefore, any claims that depend either directly or indirectly from Claim 13 are "obviously" allowable and should therefore be allowed. New Claims 23-35 all depend directly or indirectly from allowed Claim 13 and are thus obviously allowable. Claims 36-38 all recite a monolithic open cell foam catalyst bed which includes a metal support selected from the group consisting stainless steel, nickel alloys and iron-aluminum alloys. The reason that the Board reversed the Examiner's rejection of Claims 13-15 is because Sheller does not provide sufficient suggestion or motivation to employ the particular material recited in Claim 13 to form the monolithic open cell foam support useful for the autothermal reforming process (see page 15 of the Board's decision. Since new Claims 36-38 all recite the same monolithic open cell foam support structure as Claim 13, these claims are obviously allowable.

As noted above, this amendment is being presented due to the fact that the Examiner improperly refused to enter Amendment D, and improperly canceled the original claims which had been amended in Amendment D. The Examiners failed to follow the guidelines set forth in MPEP § 1214.07 regarding the contents of Amendment D which guidelines instruct the primary examiner to recommend admittance of Amendment D and with the concurrence of the supervisory examiner, enter the amendment. This procedure was not followed, thus forcing Applicant to submit this Amendment E under the provisions of 37 CFR 1.312.

In view of the facts set forth above regarding Amendment D and the arbitrary refusal by the Examiner to enter Amendment D, it is respectfully submitted that this Amendment E should be entered. Early notice to that effect is courteously requested.

Respectfully submitted,



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